

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

	)	Civ. No.
)	
KHOA VAN TRAN	)	COMPLAINT TO COMPEL
	)	AGENCY ACTION UNDER
Plaintiff,	)	28 U.S.C § 1361 AND 5 U.S.C.
	)	§§ 555(b), 701(1), AND FOR
v.	)	A WRIT OF MANDAMUS TO
	)	COMPEL DEFENDANT’S
UR M. JADDOU, DIRECTOR OF U.S.	)	ACTION ON APPROVED FORM I-824,
CITIZENSHIP AND IMMIGRATION	)	APPLICATION FOR ACTION ON AN
SERVICES	)	APPROVED APPLICATION OR
	)	PETITION
)	
Defendant.	)	Agency No. A214 486 140
)	

COMPLAINT FOR WRIT OF MANDAMUS

To the Honorable Judges of Said Court:

Plaintiff, KHOA VAN TRAN, through undersigned counsel, alleges as follows:

I. INTRODUCTION

1. This is a civil action brought pursuant to 28 U.S.C. § 1361, 8 U.S.C. § 1329, and 28 U.S.C. § 1331, to redress the deprivation of rights, privileges and immunities secured to Plaintiff to compel Defendant to perform a duty Defendant owed to Plaintiff.
2. This action is brought to compel Defendant and those acting under them to take action on Plaintiff’s approved Form I-824 by transferring the case to National Visa Center (“NVC”) so that Plaintiff’s family members can accompany or follow-to-join Plaintiff as Lawful Permanent Residents of the United States.

3. Plaintiff requests that this Court issue injunctive relief and a writ in the nature of mandamus compelling the Defendant to transfer Plaintiff's approved Form I-824 to NVC to complete its processing of the approved Form I-824 for the U.S. Embassy at Ho Chi Minh City, Vietnam to ultimately make a determination to grant or deny immigrant visa applications for Plaintiff's family members under 8 U.S.C §1202.

II. JURISDICTION

4. This Court has general federal question jurisdiction over this action under 5 U.S.C. §§ 555(b) and 706(a), 28 U.S.C. § 1361, and 28 U.S.C. § 1331(a). Jurisdiction is also conferred by 5 U.S.C. § 704.
5. This Court also has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and F.R.C.P. 57 and 65.

III. VENUE

6. Venue in the Northern District of Georgia is proper pursuant to 28 U.S.C. §1391(e). Defendant is an Officer of the United States acting in her official capacity, and the U.S. Attorney General's Office, the Department of Homeland Security ("DHS"), and the United States Citizenship and Immigration Services ("USCIS") are agencies of the United States. Further, Plaintiff is a resident of Gwinnett County. Therefore, the Plaintiff resides in this judicial district.

IV. EXHAUSTION

7. There are no administrative remedies available for Plaintiff to exhaust.

V. PARTIES

Plaintiff

8. Plaintiff, KHOA VAN TRAN (Alien Registration Number: A214 486 140), is a resident of Gwinnett County, Georgia and is an applicant for an approved Form I-824.

Defendant

9. Defendant UR M. JADDOU, is the Director of USCIS, a fee-for-service agency which she is responsible for the administration and enforcement of the immigration laws of the United States. This action is brought against her in her official capacity.

VI. FACTUAL ALLEGAIONS

10. Plaintiff, a 44-year-old male who is a native and citizen of Vietnam, has been a permanent resident in the U.S. since October 2019. *See* Exhibit A.
11. Plaintiff filed a Form I-824 with USCIS to request USCIS to notify a U.S. Consulate at Ho Chi Minh City in Vietnam through the NVC about his adjustment of status to permanent resident in the U.S. so that his spouse and children may accompany or follow-to-join him.
12. USCIS approved Plaintiff's Form I-824, Application for Action on an Approved Application or Petition on June 15, 2022. *See* Exhibit B.
13. USCIS has not sent this approved Form I-824 to NVC to this date and Plaintiff has not received a visa fee invoice to further process visa applications for his family members in Vietnam.
14. The Plaintiff has at all times met and continues to meet the requirements necessary to

have his approved Form I-824 sent to NVC.

15. Form I-824 has been approved for more than 14 months and yet, it does not seem as though Defendant is moving forward on transferring Plaintiff's approved Form I-824 to NVC.

COUNT 1

16. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 15 above.
17. Plaintiff is eligible for an immediate transfer of his approved Form I-824 from USCIS to NVC.
18. Plaintiff's family members are eligible to follow-to-join Plaintiff as lawful permanent residents of the United States of America.
19. Plaintiff has not been able to reunite with his family as USCIS has not sent the approved Form I-824 to NVC. Plaintiff has suffered and will continue to suffer significant and irreparable harm because of the Defendant's policies, procedures, acts and failures to act as described herein.
20. Defendant has violated Plaintiff's statutory right to apply for benefits which Congress has provided under the INA, depriving Plaintiff of the opportunity to be united with his family members upon they follow-to-join his to achieve lawful permanent residence and live lawfully in the United States with him under 8 USC § 1202.

Count 2

21. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 20 above.
22. Plaintiff has suffered a legal wrong or has been "adversely affected or aggrieved" by

agency action. 5 U.S.C. § 702. Plaintiff is a person aggrieved by agency action, for which there is no other adequate remedy in a court. 5 U.S.C. § 704.

Count 3

23. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 22 above.
24. Defendant owes Plaintiff a clear and certain duty to adjudicate Plaintiff's Application.
25. Plaintiff has no other adequate remedy.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court:

1. Assume Jurisdiction over this action;
2. Issue a writ of mandamus compelling Defendant USCIS to transfer her approved Form I-824 to NVC;
3. Award Plaintiff reasonable costs and attorney's fees under the Equal Access to Justice Act; and
4. Award such further relief as the Court deems just or appropriate.

RESPECTFULLY SUBMITTED this 3rd day of August, 2023.

/s/
Myung-Sun Caitlyn Goldstein
Georgia Bar No. 623307
Goldstein Law Group
3449 Lawrenceville-Suwanee Road, Ste. C
Suwanee, GA 30024
Phone: 404-781-9212
Fax: 877-273-8478
Email: mcg@mcglawoffice.com
Counsel for Plaintiff

VERIFICATION

I, Myung-Sun Caitlyn Goldstein, hereby verify that, to the best of my knowledge and belief, the matters stated in the Complaint to Compel Agency Action and for a Writ of Mandamus to Compel Defendant's Action on Approved Form I-824, Application for Action on an Approved Application or Petition are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Suwanee, Georgia on this 3rd day of August, 2023.

/s/

Myung-Sun Caitlyn Goldstein
Georgia Bar No. 623307
Goldstein Law Group
3449 Lawrenceville-Suwanee Road, Ste. C
Suwanee, GA 30024
Phone: 404-781-9212
Fax: 877-273-8478
Email: mcg@mcglawoffice.com
Counsel for Plaintiff

CERTIFICATE OF SERVICE

This is to certify that I electronically filed the foregoing **COMPLAINT FOR MANDAMUS RELIEF** and its accompanying Exhibits with the Clerk of Court using the CM/ECF system. This system will automatically send email notification of such filing to all below Defendant who are registered with this system. In addition, in compliance with local rules, this initial Complaint and the accompanying Exhibits and summons will also be served by First Class Certified Mail, postage pre-paid, on:

Ur M. Jaddou, Director
c/o
Office of the Chief Counsel
20 Massachusetts Avenue, NW
Room 4210
Washington, D.C. 20529

Kurt R. Erskine
Acting USA
Norther District of Georgia
75 Ted Turner Drive SW
Suite 600
Atlanta, Georgia 30303

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Certified this 3rd day of August, 2023,

/s/
Myung-Sun Caitlyn Goldstein
Georgia Bar No. 623307
Goldstein Law Group
3449 Lawrenceville-Suwanee Road, Ste. C
Suwanee, GA 30024
Phone: 404-781-9212
Fax: 877-273-8478
Email: mcg@mcglawoffice.com
Counsel for Plaintiff